

October 17, 2007

EX PARTE

Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th Street, SW

Washington, DC, 20554

RE: Exclusive Service Contracts for the Provision of Video Services in
Multiple Dwelling Units, MB Docket No. 07-51

Dear Ms. Dortch:

The Institute For Liberty (IFL), is a non-profit advocacy organizations promoting principles and policies of liberty in the markets and in government.

IFL respectfully submits this letter to urge the FCC to refrain from taking the extraordinary measure of voiding existing, freely negotiated contracts between multiple-dwelling units and video services providers.

Regardless of the Commission's policy objectives, voiding freely negotiated contracts is an extreme measure that has the clear capability of creating uncertainty and reducing investment.

If a video services provider has invested its own capital in the physical plant of the MDU, for example, by wiring coaxial cable throughout the building, the

cost of recouping those costs over time may well have been negotiated in the contract. By unilaterally voiding that contract, the FCC will not only be rendering that capital investment worthless, but will also discourage such investment in the future.

On an individual level, direct broadcast satellite firms often offer “free” equipment as an incentive for new customers. Those individual customers are in effect getting a similar deal as would an MDU, with the video-services firm counting on holding that customer over a period of time in order to recoup the initial loss they took on equipment and labor costs.

If these individuals’ contracts were suddenly voided, surely the Commission could see how a competitive market might not necessarily be served. Likewise, consumer welfare in the MDU market might well increase by firms competing to serve the owner and residents of an apartment building.

IFL respectfully argues that the Commission is not well-positioned to review these freely negotiated contracts to determine whether consumers have been well served. And since there is a strong case to be made that the capital outlays made by MVPDs in advance of serving the MDU have resulted in increased consumer welfare, the Commission should refrain from voiding existing contracts, and set its policies in a forward-going manner.

Respectfully

Jason Wright

Institute for Liberty